



Sen. William R. Haine

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1 AMENDMENT TO SENATE BILL 1961

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1961 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Asbestos Occupations Licensure Act.

6 Section 5. Scope and application. The provisions of this  
7 Act shall apply to the training and licensing of persons and  
8 firms (1) to perform asbestos inspection, (2) to perform  
9 abatement work, and (3) to serve as asbestos abatement  
10 contractors, response action contractors, and asbestos  
11 workers, under both the Asbestos Abatement Act and the  
12 Commercial and Public Building Asbestos Abatement Act.

13 Section 10. Definitions. As used in this Act:

14 "Asbestos" means the asbestiform varieties of chrysotile,  
15 amosite, crocidolite, tremolite, anthrophyllite, and

1 actinolite.

2 "Asbestos Abatement Contractor" means any entity that  
3 engages in the removal, enclosure, or encapsulation of asbestos  
4 containing materials for any school.

5 "Asbestos inspector" means an individual licensed by the  
6 Department to perform inspections for the presence of asbestos  
7 containing materials.

8 "Asbestos materials" means materials formed by mixing  
9 asbestos fibers with other products, including but not limited  
10 to rock wool, plaster, cellulose, clay, vermiculite, perlite  
11 and a variety of adhesives, and which contain more than 1%  
12 asbestos by weight. Some of these materials may be sprayed on  
13 surfaces or applied to surfaces in the form of plaster or a  
14 textured paint.

15 "Asbestos professional" means an individual who is  
16 licensed by the Department to perform the duties of an  
17 inspector, management planner, project designer, project  
18 supervisor, project manager, or air sampling professional, as  
19 applicable, except project supervisors under the direct employ  
20 of a licensed asbestos abatement contractor.

21 "Asbestos supervisor" means an asbestos abatement  
22 contractor, foreman, or person designated as the asbestos  
23 abatement contractor's representative who is responsible for  
24 the onsite supervision of the removal, encapsulation, or  
25 enclosure of friable or nonfriable asbestos-containing  
26 materials in a commercial or public building.

1 "Asbestos worker" means an individual who cleans, removes,  
2 encapsulates, encloses, hauls or disposes of friable asbestos  
3 material in schools as defined in this Act.

4 "Board" means the Illinois Pollution Control Board.

5 "Department" means the Department of Public Health.

6 "Director" means the Director of Public Health.

7 "Encapsulation" means the treatment of "asbestos  
8 containing building materials" (ACBM), as defined by Section 15  
9 of the Commercial and Public Building Asbestos Abatement Act,  
10 with a material that surrounds or embeds asbestos fibers in an  
11 adhesive matrix to prevent the release of fibers, as the  
12 encapsulant creates a membrane over the surfaces (bridging  
13 encapsulant or penetrates the material and binds its components  
14 together (penetrating encapsulant).

15 "Enclosure" means the construction of airtight walls and  
16 ceilings between the asbestos material and the facility  
17 environment, or around surfaces coated with asbestos  
18 materials, or any other appropriate scientific procedure as  
19 determined by the Department which prevents the release of  
20 asbestos materials.

21 "Friable" when referring to material in a school building  
22 means that the material, when dry, may be crumbled, pulverized,  
23 or reduced to powder by hand pressure, and includes previously  
24 nonfriable materials after such previously nonfriable material  
25 becomes damaged to the extent that, when dry, it may be  
26 crumbled, pulverized, or reduced to powder by hand pressure.

1 "Friable material containment" means the encapsulation or  
2 enclosure of any friable asbestos material in a facility.

3 "Management planner" means an individual licensed by the  
4 Department to prepare management plans.

5 "Nonfriable" means material in a school building which,  
6 when dry, may not be crumbled, pulverized, or reduced to powder  
7 by hand pressure.

8 "Project designer" means an individual licensed by the  
9 Department to design response actions.

10 "Response action" means a method, including removal,  
11 encapsulation, enclosure, repair, operations and maintenance,  
12 that protects human health and the environment from friable  
13 ACM.

14 "Response action contractor" means any entity that engages  
15 in response action services for any school.

16 Section 15. Powers and duties of the Department.

17 (a) The Department is empowered to promulgate any rules  
18 necessary to ensure proper implementation and administration  
19 of this Act and the regulations promulgated thereunder.

20 (b) Rules promulgated by the Department shall include rules  
21 providing for the training and licensing of persons and firms  
22 to perform asbestos inspection and air sampling; to perform  
23 abatement work; and to serve as asbestos abatement contractors,  
24 management, planners, project designers, project supervisors,  
25 project managers and asbestos workers for public and private

1 secondary and elementary schools.

2 (c) In carrying out its responsibilities under this Act,  
3 the Department shall:

4 (1) publish a list of persons and firms licensed  
5 pursuant to this Act, except that the Department shall not  
6 be required to publish a list of licensed asbestos workers;  
7 and

8 (2) adopt rules for the collection of fees for training  
9 course approval; and for licensing of inspectors,  
10 management planners, project designers, contractors,  
11 supervisors, air sampling professionals, project managers  
12 and workers.

13 Section 20. Rulemaking. The provisions of the Illinois  
14 Administrative Procedure Act are hereby expressly adopted and  
15 shall apply to all administrative rules and procedures of the  
16 Department of Public Health under this Act, except that in case  
17 of conflict between the Illinois Administrative Procedure Act  
18 and this Act the provisions of this Act shall control, and  
19 except that Section 5-35 of the Illinois Administrative  
20 Procedure Act relating to procedures for rulemaking does not  
21 apply to the adoption of any rule required by federal law in  
22 connection with which the Department is precluded by law from  
23 exercising any discretion.

24 Before initiating any rulemaking under this Section, the  
25 Department shall consult with the Asbestos Advisory Council as

1 set forth in subsection (h) of Section 59 of the Environmental  
2 Protection Act.

3 Section 25. Administrative review. All final  
4 administrative decisions of the Department hereunder shall be  
5 subject to judicial review pursuant to the provisions of the  
6 "Administrative Review Law", as amended, and the rules adopted  
7 pursuant thereto. The term "Administrative Decision" is  
8 defined as in Section 3-101 of the Code of Civil Procedure.

9 Section 30. Hearings. The Director after notice and  
10 opportunity for hearing to the contractor, applicant or license  
11 holder may deny, suspend, or revoke a license or expunge such  
12 person from the state list in any case in which he or she finds  
13 that there has been a substantial failure to comply with the  
14 provisions of this Act or the standards, rules and regulations  
15 established by virtue thereof.

16 Such notice shall be provided by certified mail or by  
17 personal service setting forth the particular reasons for the  
18 proposed action and fixing a date, not less than 15 days from  
19 the date of such mailing or service, at which time the  
20 applicant, contractor, or license holder shall be given an  
21 opportunity to request hearing.

22 The hearing shall be conducted by the Director or by an  
23 individual designated in writing by the Director as Hearing  
24 Officer to conduct the hearing. On the basis of any such

1 hearing, or upon default of the contractor, applicant or  
2 license holder, the Director shall make a determination  
3 specifying his or her findings and conclusions. A copy of such  
4 determination shall be sent by certified mail or served  
5 personally upon the applicant, contractor or license holder.

6 The procedure governing hearings authorized by this  
7 Section shall be in accordance with rules promulgated by the  
8 Department. A full and complete record shall be kept of all  
9 proceedings, including the notice of hearing, complaint, and  
10 all other documents in the nature of pleadings, written motions  
11 filed in the proceedings, and the report and orders of the  
12 Director and Hearing Officer. All testimony shall be reported  
13 but need not be transcribed unless the decision is sought to be  
14 reviewed pursuant to the "Administrative Review Law". A copy or  
15 copies of the transcript may be obtained by any interested  
16 party on payment of the cost of preparing such copy or copies.  
17 The Director or Hearing Officer, shall upon his or her own  
18 motion, or on the written request of any party to the  
19 proceeding, issue subpoenas requiring the attendance and the  
20 giving of testimony by witnesses, and subpoenas duces tecum  
21 requiring the production of books, papers, records or  
22 memoranda. All subpoenas and subpoenas duces tecum issued under  
23 the terms of this Act may be served by any person of legal age.  
24 The fees of witnesses for attendance and travel shall be the  
25 same as the fees of witnesses before the Circuit Court of this  
26 State, such fees to be paid when the witness is excused from

1 further attendance. When the witness is subpoenaed at the  
2 instance of the Director or Hearing Officer, such fees shall be  
3 paid in the same manner as other expenses of the Department,  
4 and when the witness is subpoenaed at the instance of any other  
5 party to any such proceeding the Department may require that  
6 the cost of service of the subpoena or subpoena duces tecum and  
7 the fee of the witness be borne by the party at whose instance  
8 the witness is summoned. In such case, the Department in its  
9 discretion may require a deposit to cover the cost of such  
10 service and witness fees. A subpoena or subpoena duces tecum so  
11 issued as above stated shall be served in the same manner as a  
12 subpoena issued by a circuit court.

13 Any circuit court of this State, upon the application of  
14 the Director, or upon the application of any other party to the  
15 proceeding, may, in its discretion, compel the attendance of  
16 witnesses, the production of books, papers, records or  
17 memoranda and the giving of testimony before the Director or  
18 Hearing Officer conducting an investigation or holding a  
19 hearing authorized by this Act, by an attachment for contempt  
20 or otherwise, in the same manner as production of evidence may  
21 be compelled before the court.

22 The Director or Hearing Officer, or any party in an  
23 investigation or hearing before the Department, may cause the  
24 depositions of witnesses within the State to be taken in the  
25 manner prescribed by law for like depositions in civil actions  
26 in courts of this State, and to that end compel the attendance

1 of witnesses and the production of books, papers, records, or  
2 memoranda.

3 Section 35. Consistency with federal law. Rules and  
4 regulations issued pursuant to this Act, including those  
5 governing the preparation of a list of contractors and the  
6 removal of contractors therefrom as provided for in Section 40,  
7 shall not be inconsistent with rules and regulations  
8 promulgated by the United States Environmental Protection  
9 Agency pursuant to the Toxic Substances Control Act, the Clean  
10 Air Act or other applicable federal statutes.

11 Section 40. Asbestos Abatement Contractors; Response  
12 Action Contractors. The Department shall prepare a list in  
13 cooperation with appropriate State and federal agencies on an  
14 annual basis of asbestos abatement contractors and response  
15 action contractors familiar with and capable of complying with  
16 all applicable federal and State standards for asbestos  
17 containment and removal. Additional asbestos abatement  
18 contractors or response action contractors wishing to be placed  
19 on this list shall notify the Department. The Department shall  
20 evaluate this request based on the training and experience of  
21 such a potential asbestos abatement contractor or response  
22 action contractor and render a decision. If the Department  
23 denies the request, such contractor may appeal such a decision  
24 pursuant to the provisions of the "Administrative Review Law".

1 Such list shall be made available to all school districts and,  
2 upon request, to other interested parties. In contracting for  
3 response action services, schools shall select an asbestos  
4 abatement contractor or response action contractor from the  
5 Department's list.

6 Section 45. Licensing.

7 (a) No air sampling professional, asbestos abatement  
8 contractor, asbestos consultant, asbestos inspector, asbestos  
9 professional, asbestos supervisor, asbestos worker, management  
10 planner, project designer, project manager, project  
11 supervisor, or response action contractor may be employed as a  
12 response action contractor unless that individual or entity is  
13 licensed by the Department. Those individuals and entities  
14 wishing to be licensed shall make application on forms  
15 prescribed and furnished by the Department. A license shall  
16 expire annually according to a schedule determined by the  
17 Department. Applications for renewal of licenses shall be filed  
18 with the Department at least 30 days before the expiration  
19 date. When a licensure examination is required, the application  
20 for licensure shall be submitted to the Department at least 30  
21 days prior to the date of the scheduled examination. The  
22 Department shall evaluate each application based on its minimum  
23 standards for licensure, promulgated as rules, and render a  
24 decision. Such standards may include a requirement for the  
25 successful completion of a course of training approved by the

1 Department. If the Department denies the application, the  
2 applicant may appeal such decision pursuant to the provisions  
3 of the "Administrative Review Law".

4 However, the licensing requirements of this Section for  
5 asbestos consultants do not apply to: (1) an employee of a  
6 local education agency who is that local education agency's  
7 designated person; or (2) an employee of a State agency while  
8 he or she is engaged in his or her professional duties for that  
9 State agency.

10 (b) All licenses issued under the Asbestos Abatement Act or  
11 the Commercial and Public Building Asbestos Abatement Act, and  
12 in effect on the effective date of this Act, shall remain in  
13 effect for the remainder of the period for which they were  
14 originally issued, as if they had been issued under the  
15 provisions of this Act.

16 Section 50. Certified Industrial Hygienists. For purposes  
17 of this Act and the rules promulgated thereunder, the  
18 Department shall use the list of certified industrial  
19 hygienists as prepared by the American Board of Industrial  
20 Hygiene.

21 Section 55. Contractor's Certificates of Financial  
22 Responsibility. Each asbestos abatement contractor wishing to  
23 be placed on the Department's approved list of contractors  
24 shall submit to the Department a certificate documenting that

1 the contractor carries liability insurance, self insurance,  
2 group insurance, group self insurance, a letter of credit or  
3 bond in an amount of at least:

4 (1) \$500,000 for work performed pursuant to the Asbestos  
5 Abatement Act and the rules promulgated thereunder.

6 (2) \$1,000,000 for work performed pursuant to this  
7 Commercial and Public Building Asbestos Abatement Act and  
8 the rules promulgated thereunder.

9 No contractor may be placed on the approved list in the absence  
10 of such a certificate. All contractors presently on the  
11 approved list shall submit said certificate within 90 days of  
12 the effective date of this amendatory Act of 1985, or the  
13 Department shall remove their names from the approved list.

14 Each contractor shall maintain on file with the Department  
15 a current certificate of financial responsibility throughout  
16 the entire length of time the contractor's name appears on the  
17 Department's list of approved contractors. A contractor shall  
18 notify the Department of any change in the status of a  
19 certificate which has been filed including expiration,  
20 renewal, or alteration of the terms of the certificate.

21 Section 60. Civil Penalties. The Department is empowered to  
22 assess civil penalties for violations of this Act and the rules  
23 promulgated under this Act pursuant to rules for such penalties  
24 established by the Department.

1           Section 65. Asbestos Occupations Licensure Fund.       All  
2 fees and penalties collected by the Department pursuant to this  
3 Act, and all interest attributable to those amounts, shall be  
4 deposited into the Asbestos Occupations Licensing Fund, which  
5 is hereby created as a special fund in the State Treasury.  
6 Subject to appropriation, all moneys deposited in the Asbestos  
7 Occupations Licensing Fund under this Act shall be available to  
8 the Department for its administration of this Act.

9           Section 70. The State Finance Act is amended by adding  
10 Section 5.826 as follows:

11           (30 ILCS 105/5.826 new)

12           Sec. 5.826. The Asbestos Occupations Licensure Fund.

13           Section 75. The Asbestos Abatement Act is amended by  
14 changing Sections 3, 4, 6, 6a, 6b, 7, 9, 9a, 9b, 11, 12a, 12b,  
15 12c, 13, 14, and 16 as follows:

16           (105 ILCS 105/3) (from Ch. 122, par. 1403)

17           Sec. 3. Definitions. As used in this Act:

18           (a) "Asbestos" means the asbestiform varieties of  
19 chrysotile, amosite, crocidolite, tremolite, anthrophyllite,  
20 and actinolite.

21           (b) "Asbestos materials" means materials formed by mixing  
22 asbestos fibers with other products, including but not limited

1 to rock wool, plaster, cellulose, clay, vermiculite, perlite  
2 and a variety of adhesives, and which contain more than 1%  
3 asbestos by weight. Some of these materials may be sprayed on  
4 surfaces or applied to surfaces in the form of plaster or a  
5 textured paint.

6 (c) "School" means any school district or public, private  
7 or nonpublic day or residential educational institution that  
8 provides elementary or secondary education for grade 12 or  
9 under.

10 (d) "Local educational agency" means:

11 (1) Any local education agency as defined in Section  
12 198 of the Elementary and Secondary Education Act of 1965  
13 (20 U.S.C. 3381).

14 (2) The owner of any nonpublic, nonprofit elementary or  
15 secondary school building.

16 (3) The governing authority of any school operated  
17 under the defense dependents' education system provided  
18 for under the Defense Department's Education Act of 1978  
19 (20 U.S.C. 921, et seq.).

20 (e) "Response action" means a method, including removal,  
21 encapsulation, enclosure, repair, operations and maintenance,  
22 that protects human health and the environment from friable  
23 ACBM.

24 (f) "Asbestos containing building materials" or ACBM means  
25 surfacing asbestos containing material or ACM, thermal system  
26 insulation ACM or miscellaneous ACM that is found in or on

1 interior structural members or other parts of a school  
2 building.

3 (g) "Friable" when referring to material in a school  
4 building means that the material, when dry, may be crumbled,  
5 pulverized, or reduced to powder by hand pressure, and includes  
6 previously nonfriable materials after such previously  
7 nonfriable material becomes damaged to the extent that, when  
8 dry, it may be crumbled, pulverized, or reduced to powder by  
9 hand pressure.

10 (h) "Asbestos Abatement Contractor" means any entity that  
11 engages in the removal, enclosure, or encapsulation of asbestos  
12 containing materials for any school.

13 (i) "Response action contractor" means any entity that  
14 engages in response action services for any school.

15 (j) "Friable material containment" means the encapsulation  
16 or enclosure of any friable asbestos material in a facility.

17 (k) "Enclosure" means the construction of airtight walls  
18 and ceilings between the asbestos material and the educational  
19 facility environment, or around surfaces coated with asbestos  
20 materials, or any other appropriate scientific procedure as  
21 determined by the Agency ~~Department~~ which prevents the release  
22 of asbestos materials.

23 (l) "Encapsulation" means the treatment of ACBM with a  
24 material that surrounds or embeds asbestos fibers in an  
25 adhesive matrix to prevent the release of fibers, as the  
26 encapsulant creates a membrane over the surfaces (bridging

1 encapsulant or penetrates the material and binds its components  
2 together (penetrating encapsulant).

3 (m) "Department" means the Department of Public Health.

4 (n) "Director" means the Director of the Illinois  
5 Environmental Protection Agency ~~Public Health~~.

6 (o) "School personnel" means any employee of a school.

7 (p) "Student" means any student enrolled in a school.

8 (q) "School Building" means:

9 (1) Any structure suitable for use as a classroom,  
10 including a school facility such as a laboratory, library,  
11 school eating facility, or facility used for the  
12 preparation of food.

13 (2) Any gymnasium or other facility which is specially  
14 designed for athletic or recreational activities for an  
15 academic course in physical education.

16 (3) Any other facility used for the instruction or  
17 housing of students or for the administration of  
18 educational or research programs.

19 (4) Any maintenance, storage, or utility facility,  
20 including any hallway essential to the operation of any  
21 facility described in this definition of "school building"  
22 under items (1), (2), or (3).

23 (5) Any portico or covered exterior hallway or walkway.

24 (6) Any exterior portion of a mechanical system used to  
25 condition interior space.

26 (r) "Asbestos worker" means an individual who cleans,

1 removes, encapsulates, encloses, hauls or disposes of friable  
2 asbestos material in schools as defined in this Act.

3 (s) "Nonfriable" means material in a school building which,  
4 when dry, may not be crumbled, pulverized, or reduced to powder  
5 by hand pressure.

6 (t) "Management plan" means a plan developed for a local  
7 educational agency for the management of asbestos in its school  
8 buildings pursuant to the federal Asbestos Hazard Emergency  
9 Response Act of 1986 and the regulations promulgated  
10 thereunder.

11 (u) "Management planner" means an individual licensed by  
12 the Department to prepare management plans.

13 (v) "Project designer" means an individual licensed by the  
14 Department to design response actions for school buildings.

15 (w) "Asbestos inspector" means an individual licensed by  
16 the Department to perform inspections of schools for the  
17 presence of asbestos containing materials.

18 (x) "Agency" means the Illinois Environmental Protection  
19 Agency.

20 (y) "Board" means the Illinois Pollution Control Board.

21 (Source: P.A. 86-416; 86-1475.)

22 (105 ILCS 105/4) (from Ch. 122, par. 1404)

23 Sec. 4. Response action. Schools shall undertake and  
24 complete such response action as may be required by the federal  
25 Asbestos Hazard Emergency Response Act of 1986, the regulations

1 promulgated thereunder, and the rules promulgated by the Board  
2 ~~Department~~ pursuant to the Asbestos Abatement Act. Response  
3 actions shall be undertaken and completed within the timeframe  
4 required by the federal Asbestos Hazard Emergency Response Act  
5 of 1986 and the regulations promulgated thereunder.

6 (Source: P.A. 86-416.)

7 (105 ILCS 105/6) (from Ch. 122, par. 1406)

8 Sec. 6. Powers and duties of the Agency ~~Department~~.

9 (a) In accordance with Title VII of the Environmental  
10 Protection Act, and after consultation with the Asbestos  
11 Advisory Committee as set forth in subsection (h) of Section 59  
12 of the Environmental Protection Act, the Agency may propose,  
13 and the Board may adopt, ~~The Department is empowered to~~  
14 ~~promulgate~~ any rules necessary to ensure proper implementation  
15 and administration of this Act and of the federal Asbestos  
16 Hazard Emergency Response Act of 1986, and the regulations  
17 promulgated thereunder.

18 (b) Rules adopted under subsection (a) ~~promulgated by the~~  
19 ~~Department~~ shall include, but need not be limited to:

20 (1) all rules necessary to achieve compliance with the  
21 federal Asbestos Hazard Emergency Response Act of 1986 and  
22 the regulations promulgated thereunder;

23 (2) rules relating to the correct and safe performance  
24 of asbestos inspection, air sampling, asbestos abatement  
25 work, and other related tasks by persons licensed to do so

1       under the Asbestos Occupations Licensure Act; and ~~rules~~  
2       ~~providing for the training and licensing of persons and~~  
3       ~~firms to perform asbestos inspection and air sampling; to~~  
4       ~~perform abatement work; and to serve as asbestos abatement~~  
5       ~~contractors, management, planners, project designers,~~  
6       ~~project supervisors, project managers and asbestos workers~~  
7       ~~for public and private secondary and elementary schools;~~  
8       ~~and any necessary rules relating to the correct and safe~~  
9       ~~performance of those tasks; and~~

10       (3) rules for the development and submission of  
11       asbestos management plans by local educational agencies,  
12       and for review and approval of such plans by the Agency  
13       Department.

14       (c) The rules proposed by the Agency and adopted by the  
15       Board shall require each local educational agency to maintain  
16       records of asbestos-related activities, which shall be made  
17       available to the Agency upon request. ~~In carrying out its~~  
18       ~~responsibilities under this Act, the Department shall:~~

19       ~~(1) publish a list of persons and firms licensed~~  
20       ~~pursuant to this Act, except that the Department shall not~~  
21       ~~be required to publish a list of licensed asbestos workers;~~

22       ~~(2) require each local educational agency to maintain~~  
23       ~~records of asbestos related activities, which shall be~~  
24       ~~made available to the Department upon request; and~~

25       ~~(3) adopt rules for the collection of fees for training~~  
26       ~~course approval; and for licensing of inspectors,~~

1 ~~management planners, project designers, contractors,~~  
2 ~~supervisors, air sampling professionals, project managers~~  
3 ~~and workers.~~

4 (Source: P.A. 96-537, eff. 8-14-09; 96-1000, eff. 7-2-10.)

5 (105 ILCS 105/6a) (from Ch. 122, par. 1406a)

6 Sec. 6a. All rulemaking under this Act shall be conducted  
7 in accordance with Title VII of the Environmental Protection  
8 Act. ~~The provisions of the Illinois Administrative Procedure~~  
9 ~~Act are hereby expressly adopted and shall apply to all~~  
10 ~~administrative rules and procedures of the Department of Public~~  
11 ~~Health under this Act, except that in case of conflict between~~  
12 ~~the Illinois Administrative Procedure Act and this Act the~~  
13 ~~provisions of this Act shall control, and except that Section~~  
14 ~~5-35 of the Illinois Administrative Procedure Act relating to~~  
15 ~~procedures for rule making does not apply to the adoption of~~  
16 ~~any rule required by federal law in connection with which the~~  
17 ~~Department is precluded by law from exercising any discretion.~~

18 (Source: P.A. 88-45.)

19 (105 ILCS 105/6b) (from Ch. 122, par. 1406b)

20 Sec. 6b. All final administrative decisions of the Board  
21 ~~Department~~ hereunder shall be subject to judicial review  
22 pursuant to the provisions of Title XI of the Environmental  
23 Protection Act ~~the "Administrative Review Law", as amended, and~~  
24 ~~the rules adopted pursuant thereto. The term "Administrative~~

1 ~~Decision" is defined as in Section 3-101 of the Code of Civil~~  
2 ~~Procedure.~~

3 (Source: P.A. 84-951.)

4 (105 ILCS 105/7) (from Ch. 122, par. 1407)

5 Sec. 7. Consistency with federal law. Rules and regulations  
6 issued pursuant to this Act, ~~including those governing the~~  
7 ~~preparation of a list of contractors and the removal of~~  
8 ~~contractors therefrom as provided for in Section 10,~~ shall not  
9 be inconsistent with rules and regulations promulgated by the  
10 United States Environmental Protection Agency pursuant to the  
11 Toxic Substances Control Act, the Clean Air Act or other  
12 applicable federal statutes.

13 (Source: P.A. 84-951.)

14 (105 ILCS 105/9) (from Ch. 122, par. 1409)

15 Sec. 9. State Funding. Funding sources for State funding  
16 with respect to costs of corrective action shall include  
17 appropriations from the General Revenue Fund, proceeds from  
18 litigation against manufacturers, distributors and contractors  
19 of asbestos products, funds provided under the provisions of  
20 the federal Asbestos School Hazard Abatement Act of 1984, or  
21 any combination thereof. The Agency ~~Department~~ shall request  
22 appropriations from any of these funds based on its review of  
23 school funding needs and include such in its annual budget  
24 request.

1 (Source: P.A. 84-951.)

2 (105 ILCS 105/9a) (from Ch. 122, par. 1409a)

3 Sec. 9a. Reimbursement for corrective action. The Agency  
4 ~~Department~~ shall, from funds appropriated for this purpose,  
5 reimburse schools which have undertaken corrective action.  
6 Such schools, upon completion of an inspection by the Agency  
7 ~~Department~~, shall be eligible for reimbursement only for those  
8 projects found to have been conducted in accordance with the  
9 provisions of this Act and the rules promulgated thereunder.  
10 Schools shall apply for such reimbursement to the Agency  
11 ~~Department~~ on forms designed and provided by the Agency  
12 ~~Department~~.

13 The amount of reimbursement for which a public school  
14 district is eligible shall be calculated by the Agency  
15 ~~Department~~ based upon a Grant Index developed by the State  
16 Board of Education. This Grant Index shall be based upon the  
17 equalized assessed valuation of the school district and other  
18 measures of relative wealth to determine the percentage of the  
19 total cost of corrective action for which reimbursement shall  
20 be authorized. The Grant Index for any school district is equal  
21 to one minus the ratio of the district's equalized assessed  
22 valuation per pupil in weighted daily average attendance to the  
23 equalized assessed valuation per pupil in weighted average  
24 daily attendance of the district located at the ninetieth  
25 percentile for all districts of the same type. The Grant Index

1 for any school district shall be not less than .50 and no  
2 greater than 1.00. The product of the district's Grant Index  
3 and the project cost, as determined by the Agency Department  
4 for approved corrective action, equals the total amount that  
5 shall be reimbursed to the school according to the provisions  
6 of this Section. All non-public schools shall be eligible for  
7 reimbursement in an amount equal to 50% of the cost of  
8 corrective action.

9 Out of funds appropriated for such purpose, 20% of the  
10 amount of reimbursement to which any school is determined  
11 entitled shall be paid in each of 5 successive fiscal years.  
12 The Agency Department shall request an annual appropriation in  
13 an amount sufficient to cover all expected reimbursements to be  
14 paid out in that fiscal year.

15 For purposes of reimbursement under this Section,  
16 corrective action means removal, encapsulation or enclosure.  
17 Schools reimbursed pursuant to this Section for corrective  
18 action shall not be eligible for grants under Section 9b with  
19 respect to the corrective action for which they are so  
20 reimbursed.

21 (Source: P.A. 84-1245.)

22 (105 ILCS 105/9b) (from Ch. 122, par. 1409b)

23 Sec. 9b. Grants for asbestos abatement work undertaken on  
24 or after January 1, 1986. Schools which undertake corrective  
25 action on or after January 1, 1986 shall be eligible for grants

1 for asbestos abatement activities conducted in accordance with  
2 this Act and the rules promulgated thereunder. Funds shall be  
3 provided only to those schools which have been inspected  
4 pursuant to this Act. Schools which desire abatement grants  
5 shall apply to the Agency ~~Department~~ for such grants on forms  
6 designed and provided by the Agency ~~Department~~. The Agency  
7 ~~Department~~ shall evaluate applications to establish priorities  
8 for funding recognizing the degree of health hazard present and  
9 shall categorize school needs using a numerical ranking.

10 In conjunction with the State Board of Education, the  
11 Agency ~~Department~~ shall calculate the amount of grant for which  
12 a public school district is eligible, based upon a Grant Index  
13 developed by the State Board of Education. The Grant Index  
14 shall be based upon the equalized assessed valuation of the  
15 school district and other measures of relative wealth to  
16 determine the percentage of the total cost of corrective action  
17 for which grants shall be authorized. The Grant Index for any  
18 school district is equal to one minus the ratio of the  
19 district's equalized assessed valuation per pupil in weighted  
20 daily average attendance to the equalized assessed valuation  
21 per pupil in weighted average daily attendance of the district  
22 located at the ninetieth percentile for all districts of the  
23 same type. The Grant Index for any school district shall be not  
24 less than .50 and no greater than 1.00. The product of the  
25 district's Grant Index and the project cost, as determined by  
26 the Agency ~~Department~~ for approved corrective action, equals

1 the amount that shall be expended on behalf of the school. All  
2 non-public schools shall be eligible for grants in an amount  
3 equal to 50% of the cost of corrective action.

4 In conjunction with the Capital Development Board, the  
5 Agency ~~Department~~ shall issue grants to schools for corrective  
6 action. The Capital Development Board shall, in conjunction  
7 with the schools, contract with a contractor whose name appears  
8 on the Department's list of approved contractors for the  
9 corrective action determined necessary according to provisions  
10 of this Act and the rules promulgated thereunder. All such  
11 contractors shall be prequalified as may be required by The  
12 Illinois Purchasing Act. All contracts entered into by the  
13 schools and the Capital Development Board shall include a  
14 provision that all work to be conducted under that contract  
15 shall be undertaken in accordance with this Act and the rules  
16 promulgated thereunder. The Capital Development Board shall  
17 exercise general supervision over corrective action financed  
18 pursuant to the provisions of this Act and the rules  
19 promulgated thereunder in schools. The Capital Development  
20 Board shall request an annual appropriation in an amount  
21 sufficient to cover all expected grants to be awarded in that  
22 year. For purposes of reimbursement under this Section,  
23 corrective action means removal, encapsulation or enclosure.

24 A school district may levy a tax in accordance with Section  
25 17-2.11 of "The School Code" in order to provide local funding  
26 for corrective action ordered under this Act. A school may use

1 federal loans or grants to finance the cost of corrective  
2 action, but no State funding shall be used to repay any federal  
3 loan received by a school for asbestos abatement projects.

4 (Source: P.A. 84-1096.)

5 (105 ILCS 105/11) (from Ch. 122, par. 1411)

6 Sec. 11. Recordkeeping. Each school district shall:

7 (a) Keep a record of each asbestos abatement project that  
8 is performed in schools; and

9 (b) Make that record available to the Agency ~~Department~~ at  
10 any reasonable time.

11 (Source: P.A. 83-1325.)

12 (105 ILCS 105/12a) (from Ch. 122, par. 1412a)

13 Sec. 12a. Emergency stop work orders. Whenever the Agency  
14 ~~Department~~ finds that an emergency exists which requires  
15 immediate action to protect the public health, it may, without  
16 notice or hearing, issue an order reciting the existence of  
17 such an emergency and then require that such action be taken as  
18 it may deem necessary to meet the emergency, including but not  
19 limited to the issuance of a stop work order and notice to the  
20 Department for the immediate removal of a contractor or  
21 contractors from the list provided for in Section 10.  
22 Notwithstanding any other provision in this Act, such order  
23 shall be effective immediately. The State's Attorney and  
24 Sheriff of the county in which the school is located shall

1 enforce the order after receiving notice thereof. Any  
2 contractor affected by such an order is entitled, upon request,  
3 to a hearing as provided for in rules and regulations  
4 promulgated pursuant to this Act. When such conditions are  
5 abated, in the opinion of the Agency ~~Department~~, the Agency  
6 ~~Department~~ may authorize the reinstatement of the activities  
7 and shall provide notice to the Department that it may  
8 authorize the inclusion on the list of contractors of those  
9 activities and contractors which were the subject of a stop  
10 work order.

11 (Source: P.A. 84-951.)

12 (105 ILCS 105/12b) (from Ch. 122, par. 1412b)

13 Sec. 12b. Civil Penalties. The Board ~~Department~~ is  
14 empowered to assess civil penalties against a contractor  
15 inspector, management planner, project designer, supervisor,  
16 worker, project manager, or air sampling professional for  
17 violations of this Act and the rules promulgated thereunder,  
18 pursuant to rules for such penalties established by the Board  
19 ~~Department~~.

20 (Source: P.A. 86-416.)

21 (105 ILCS 105/12c) (from Ch. 122, par. 1412c)

22 Sec. 12c. Under emergency conditions, an employee of a  
23 school district may clean or dispose of less than 3 linear feet  
24 or 3 square feet of friable or non-friable asbestos containing

1 material in schools without meeting the definition of an  
2 "asbestos worker" as defined in this Act, provided the employee  
3 has completed the maximum asbestos awareness program provided  
4 for in federal law or rules. "Emergency conditions" for the  
5 purpose of this Section shall mean:

6 1) the facility is without heat, water, gas, or electric;  
7 or

8 2) the facility is unable to keep outside elements such as  
9 water from entering the interior of the structure; or

10 3) the dislodging or falling of less than 3 linear feet or  
11 3 square feet of asbestos containing materials.

12 The Board ~~Department~~ may further define, by rule, what  
13 circumstances constitute an "emergency condition" under this  
14 Section. The Department may also set forth, by rule, the  
15 training or awareness program a school employee must meet as a  
16 prerequisite to conducting of asbestos clean-up or disposal  
17 pursuant to this Section.

18 (Source: P.A. 86-647.)

19 (105 ILCS 105/13) (from Ch. 122, par. 1413)

20 Sec. 13. Federal funding. To the extent that federal funds  
21 become available for the removal of asbestos from schools and  
22 subject to any limitations which may be imposed, such federal  
23 funds shall be used in lieu of State financing of corrective  
24 actions and for any administrative costs incurred by the Agency  
25 ~~Department~~ in the administration of this Act.

1 (Source: P.A. 83-1325.)

2 (105 ILCS 105/14) (from Ch. 122, par. 1414)

3 Sec. 14. Enforcement. Notwithstanding the existence or  
4 pursuit of any other remedy, the Director may, in the manner  
5 provided by law, in the name of the People of the State and  
6 through the Attorney General who shall represent the Director  
7 in the proceedings, maintain an action for injunction or other  
8 relief or process against any school, the governing body  
9 thereof and any other person or unit of local government to  
10 enforce and compel compliance with the provisions of this Act,  
11 the rules and regulations promulgated thereunder and any order  
12 entered for any response action pursuant to this Act and such  
13 rules and regulations. Enforcement proceedings under this  
14 Section shall be conducted in accordance with Title VIII of the  
15 Environmental Protection Act.

16 (Source: P.A. 86-416.)

17 (105 ILCS 105/16) (from Ch. 122, par. 1416)

18 Sec. 16. Illinois School Asbestos Abatement Fund. All fees  
19 and penalties collected by the Agency ~~Department~~ pursuant to  
20 this Act shall be deposited into the Illinois School Asbestos  
21 Abatement Fund which is hereby created in the State Treasury.  
22 Subject to appropriation, all monies deposited in the Illinois  
23 School Asbestos Abatement Fund under this Act shall be  
24 available to the Agency ~~Department~~ for its administration of

1 this Act and of the federal Asbestos Hazard Emergency Response  
2 Act of 1986. Subject to appropriation, all moneys deposited in  
3 the Illinois School Asbestos Abatement Fund shall be available  
4 to the Agency ~~Department of Public Health~~ for administration of  
5 the Asbestos Abatement Act and the Commercial and Public  
6 Building Asbestos Abatement Act.

7 (Source: P.A. 89-143, eff. 7-14-95.)

8 (105 ILCS 105/6c rep.)

9 (105 ILCS 105/10 rep.)

10 (105 ILCS 105/10a rep.)

11 (105 ILCS 105/10b rep.)

12 (105 ILCS 105/15a rep.)

13 Section 80. The Asbestos Abatement Act is amended by  
14 repealing Sections 6c, 10, 10a, 10b, and 15a.

15 Section 85. The Commercial and Public Building Asbestos  
16 Abatement Act is amended by changing Sections 15, 20, 25, 40,  
17 55, and 60 as follows:

18 (225 ILCS 207/15)

19 Sec. 15. Definitions. As used in this Act:

20 "Agency" means the Illinois Environmental Protection  
21 Agency.

22 "Asbestos abatement contractor" means any entity that  
23 provides removal, enclosure, encapsulation, or disposal of

1 asbestos containing materials.

2 "Asbestos containing building materials" or "ACBM" means  
3 surfacing asbestos containing materials or ACM, thermal system  
4 insulation ACM, or miscellaneous ACM that is found in or on  
5 interior structural members or other parts of a building.

6 "Asbestos" means the asbestiform varieties of chrysotile,  
7 amosite, crocidolite, tremolite, anthrophyllite, and  
8 actinolite.

9 "Asbestos inspector" means an individual who performs  
10 inspections of commercial and public buildings for the presence  
11 of asbestos containing materials.

12 "Asbestos materials" means any material or product that  
13 contains more than 1% asbestos.

14 "Asbestos consultant" means a person offering expert or  
15 professional advice as an asbestos professional or designated  
16 person.

17 "Asbestos professional" means an individual who is  
18 licensed by the Department to perform the duties of an  
19 inspector, management planner, project designer, project  
20 supervisor, project manager, or air sampling professional, as  
21 applicable, except project supervisors under the direct employ  
22 of a licensed asbestos abatement contractor.

23 "Asbestos supervisor" means an asbestos abatement  
24 contractor, foreman, or person designated as the asbestos  
25 abatement contractor's representative who is responsible for  
26 the onsite supervision of the removal, encapsulation, or

1 enclosure of friable or nonfriable asbestos-containing  
2 materials in a commercial or public building.

3 "Asbestos worker" means an individual who cleans, removes,  
4 encapsulates, encloses, hauls, or disposes of friable asbestos  
5 material.

6 "Board" means the Illinois Pollution Control Board.

7 "Building/facility owner" is the legal entity, including a  
8 lessee, that exercises control over management and record  
9 keeping functions relating to a building or facility in which  
10 activities covered by this standard take place.

11 "Commercial or public building" means the interior space of  
12 any building, except that the term does not include any  
13 residential apartment building of fewer than 10 units or  
14 detached single family homes. The term includes, but is not  
15 limited to: industrial and office buildings, residential  
16 apartment buildings and condominiums of 10 or more dwelling  
17 units, government-owned buildings, colleges, museums,  
18 airports, hospitals, churches, schools, preschools, stores,  
19 warehouses, and factories. Interior space includes exterior  
20 hallways connecting buildings, porticos, and mechanical  
21 systems used to condition interior space.

22 "Department" means the Department of Public Health.

23 "Designated person" means a person designated by the local  
24 education agency, as defined by the Asbestos Abatement Act, to  
25 ensure that the management plan has been properly implemented.

26 "Director" means the Director of the Illinois

1 Environmental Protection Agency ~~Public Health~~.

2 "Encapsulation" means the treatment of ACBM with a material  
3 that surrounds or embeds asbestos fibers in an adhesive matrix  
4 that prevents the release of fibers as the encapsulant creates  
5 a membrane over the surfaces (bridging encapsulant) or  
6 penetrates the material and binds its components together  
7 (penetrating encapsulant).

8 "Enclosure" means the construction of airtight walls and  
9 ceilings between the asbestos containing material and the  
10 building environment, or around surfaces coated with asbestos  
11 containing materials, or any other appropriate scientific  
12 procedure as determined by the Agency ~~Department~~ that prevents  
13 the release of asbestos.

14 "Friable", when referring to material in a commercial or  
15 public building, means that the material, when dry, may be  
16 crumbled, pulverized, or reduced to powder by hand pressure and  
17 includes previously nonfriable materials after such previously  
18 nonfriable material becomes damaged to the extent that, when  
19 dry, it may be crumbled, pulverized, or reduced to powder by  
20 hand pressure.

21 "Inspection" means an activity undertaken in a public or  
22 commercial building to determine the presence or location, or  
23 to assess the condition of, friable or nonfriable asbestos  
24 containing building material (ACBM) or suspected ACBM, whether  
25 by visual or physical examination, or by collecting samples of  
26 such material.

1 "Nonfriable" means material in a commercial or public  
2 building which, when dry, may not be crumbled, pulverized, or  
3 reduced to powder by hand pressure.

4 "Person" means any individual, group of individuals,  
5 association, trust, partnership, corporation, person doing  
6 business under an assumed name, or any other entity.

7 "Project designer" means an individual who designs  
8 response actions for commercial or public buildings.

9 "Response action" means a method, including removal,  
10 encapsulation, enclosure, repair, operations and maintenance,  
11 that protects human health and the environment from friable  
12 ACM.

13 "Response action contractor" means any entity that engages  
14 in response action services.

15 "Response action services" means the service of designing  
16 and conducting removal, encapsulation, enclosure, repair, or  
17 operations and maintenance of friable asbestos containing  
18 building materials, inspection of public or commercial  
19 buildings, and inspection of asbestos containing materials.  
20 The term does not include the design or conducting of response  
21 actions that involve removal or possible disturbance of an  
22 amount of asbestos containing building material comprising  
23 less than 3 square feet or less than 3 lineal feet of other  
24 friable asbestos containing building material.

25 (Source: P.A. 93-894, eff. 8-10-04.)

1 (225 ILCS 207/20)

2 Sec. 20. Powers and Duties of the Agency and the Board  
3 ~~Department.~~

4 (a) In accordance with Title VII of the Environmental  
5 Protection Act, and after consultation with the Asbestos  
6 Advisory Committee as set forth in subsection (h) of Section 59  
7 of the Environmental Protection Act, the Agency may propose,  
8 and the Pollution Control Board may adopt, ~~The Department is~~  
9 ~~empowered to promulgate~~ any rules necessary to ensure proper  
10 implementation and administration of this Act, and compliance  
11 with the federal Asbestos School Hazard Abatement  
12 Reauthorization Act of 1990.

13 (b) Rules adopted by the Board ~~promulgated by the~~  
14 ~~Department~~ shall include, but not be limited to, rules relating  
15 to the correct and safe performance of response action  
16 services, and rules for the assessment of civil penalties for  
17 violations of this Act or rules promulgated under it, ~~and rules~~  
18 ~~providing for the training and licensing of persons and firms~~  
19 ~~(i) to perform asbestos inspection, (ii) to perform abatement~~  
20 ~~work, and (iii) to serve as asbestos abatement contractors,~~  
21 ~~response action contractors, and asbestos workers.~~ The Agency  
22 ~~Department~~ is empowered to inspect activities regulated by this  
23 Act to ensure compliance.

24 (c) (Blank). ~~In carrying out its responsibilities under~~  
25 ~~this Act, the Department shall:~~

26 ~~(1) Publish a list of response action contractors~~

1 ~~licensed under this Act, except that the Department shall~~  
2 ~~not be required to publish a list of licensed asbestos~~  
3 ~~workers; and~~

4 ~~(2) Adopt rules for the collection of fees for training~~  
5 ~~course approval and for the licensing of inspectors,~~  
6 ~~project designers, contractors, supervisors, and workers.~~

7 (d) All rulemaking under this Act shall be conducted in  
8 accordance with Title VII of the Environmental Protection Act.  
9 ~~The provisions of the Illinois Administrative Procedure Act are~~  
10 ~~hereby expressly adopted and shall apply to all administrative~~  
11 ~~rules and procedures of the Department of Public Health under~~  
12 ~~this Act, except that in case of conflict between the Illinois~~  
13 ~~Administrative Procedure Act and this Act the provisions of~~  
14 ~~this Act shall control, and except that Section 5-35 of the~~  
15 ~~Illinois Administrative Procedure Act relating to procedures~~  
16 ~~for rulemaking does not apply to the adoption of any rule~~  
17 ~~required by federal law in connection with which the Department~~  
18 ~~is precluded by law from exercising any discretion.~~

19 (e) All final administrative decisions of the Board  
20 ~~Department~~ under this Act shall be subject to judicial review  
21 pursuant to the provisions of Title XI of the Environmental  
22 Protection Act ~~the Administrative Review Law and the rules~~  
23 ~~adopted under it. The term "administrative decision" has the~~  
24 ~~meaning ascribed to it in Section 3-101 of the Code of Civil~~  
25 ~~Procedure.~~

26 (f) (Blank.) ~~The Director, after notice and opportunity for~~

1 ~~hearing to the applicant or license holder, may deny, suspend,~~  
2 ~~or revoke a license or expunge such person from the State list~~  
3 ~~in any case in which he or she finds that there has been a~~  
4 ~~substantial failure to comply with the provisions of this Act~~  
5 ~~or the standards or rules established under it. Notice shall be~~  
6 ~~provided by certified mail, return receipt requested, or by~~  
7 ~~personal service setting forth the particular response for the~~  
8 ~~proposed action and fixing a date, not less than 15 days from~~  
9 ~~the date of such mailing or service, at which time the~~  
10 ~~applicant, asbestos abatement contractor, or license holder~~  
11 ~~shall be given an opportunity to request hearing. The hearing~~  
12 ~~shall be conducted by the Director or by an individual~~  
13 ~~designated in writing by the Director as Hearing Officer to~~  
14 ~~conduct the hearing. On the basis of any such hearing, or upon~~  
15 ~~default of the asbestos abatement contractor, applicant or~~  
16 ~~license holder, the Director shall make a determination~~  
17 ~~specifying his or her findings and conclusions. A copy of the~~  
18 ~~determination shall be sent by certified mail, return receipt~~  
19 ~~requested, or served personally upon the applicant,~~  
20 ~~contractor, or license holder.~~

21 ~~The procedure governing hearings authorized by this~~  
22 ~~Section shall be in accordance with rules promulgated by the~~  
23 ~~Department. A full and complete record shall be kept of all~~  
24 ~~proceedings, including the notice of hearing, complaint, and~~  
25 ~~all other documents in the nature of pleadings, written motions~~  
26 ~~filed in the proceedings, and the report and orders of the~~

1 ~~Director and Hearing Officer. All testimony shall be reported~~  
2 ~~but need not be transcribed unless the decision is sought to be~~  
3 ~~reviewed under the Administrative Review Law. A copy or copies~~  
4 ~~of the transcript may be obtained by any interested party on~~  
5 ~~payment of the cost of preparing the copy or copies. The~~  
6 ~~Director or Hearing Officer shall, upon his or her own motion~~  
7 ~~or on the written request of any party to the proceeding, issue~~  
8 ~~subpoenas requiring the attendance and the giving of testimony~~  
9 ~~by witnesses, and subpoenas duces tecum requiring the~~  
10 ~~production of books, papers, records, or memoranda. All~~  
11 ~~subpoenas and subpoenas duces tecum issued under this Act may~~  
12 ~~be served by any person of legal age. The fees of witnesses for~~  
13 ~~attendance and travel shall be the same as the fees of~~  
14 ~~witnesses before the courts of this State, such fees to be paid~~  
15 ~~when the witness is excused from further attendance. When the~~  
16 ~~witness is subpoenaed at the instance of the Director or~~  
17 ~~Hearing Officer, such fees shall be paid in the same manner as~~  
18 ~~other expenses of the Department, and when the witness is~~  
19 ~~subpoenaed at the instance of any other party to any such~~  
20 ~~proceeding the Department may require that the cost of service~~  
21 ~~of the subpoena or subpoena duces tecum and the fee of the~~  
22 ~~witness be borne by the party at whose instance the witness is~~  
23 ~~summoned. In such case, the Department in its discretion may~~  
24 ~~require a deposit to cover the cost of such service and witness~~  
25 ~~fees. A subpoena or subpoena duces tecum so issued as above~~  
26 ~~stated shall be served in the same manner as a subpoena issued~~

1 ~~by a circuit court.~~

2 ~~Any circuit court of this State, upon the application of~~  
3 ~~the Director, or upon the application of any other party to the~~  
4 ~~proceeding, may, in its discretion, compel the attendance of~~  
5 ~~witnesses, the production of books, papers, records, or~~  
6 ~~memoranda and the giving of testimony before the Director or~~  
7 ~~Hearing Officer conducting an investigation or holding a~~  
8 ~~hearing authorized by this Act, by an attachment for contempt~~  
9 ~~or otherwise, in the same manner as production of evidence may~~  
10 ~~be compelled before the court.~~

11 ~~The Director or Hearing Officer, or any party in an~~  
12 ~~investigation or hearing before the Department, may cause the~~  
13 ~~depositions of witnesses within this State to be taken in the~~  
14 ~~manner prescribed by law for like depositions in civil actions~~  
15 ~~in courts of this State, and, to that end, compel the~~  
16 ~~attendance of witnesses and the production of books, papers,~~  
17 ~~records, or memoranda.~~

18 (Source: P.A. 89-143, eff. 7-14-95.)

19 (225 ILCS 207/25)

20 Sec. 25. Consistency with federal law. Rules issued under  
21 this Act, ~~including those governing the preparation of a list~~  
22 ~~of response action contractors and the removal of response~~  
23 ~~action contractors from the list as provided for in Section 20,~~  
24 shall not be inconsistent with rules and regulations  
25 promulgated by the United States Environmental Protection

1 Agency under the Toxic Substances Control Act, the Clean Air  
2 Act, or other applicable federal statutes.

3 (Source: P.A. 89-143, eff. 7-14-95.)

4 (225 ILCS 207/40)

5 Sec. 40. Enforcement. Notwithstanding the existence or  
6 pursuit of any other remedy, the Director may, in the manner  
7 provided by law and in the name of the People of the State and  
8 through the State's Attorney or the Attorney General who shall  
9 represent the Director in the proceedings, maintain an action  
10 for prosecution, injunction, or other relief or process against  
11 any Building/Facility Owner or any other person or unit of  
12 local government to enforce and compel compliance with the  
13 provisions of this Act, the rules promulgated under it and any  
14 order entered for any action under this Act and its rules.  
15 Enforcement proceedings under this Section shall be conducted  
16 in accordance with Title VIII of the Environmental Protection  
17 Act. A person who violates this Act is guilty of a Class A  
18 misdemeanor punishable by a fine of \$1,000 for each day the  
19 violation exists in addition to other civil penalties or up to  
20 6 months imprisonment or both a fine and imprisonment.

21 (Source: P.A. 89-143, eff. 7-14-95.)

22 (225 ILCS 207/55)

23 Sec. 55. Civil penalties. The ~~Board Department~~ is empowered  
24 to assess civil penalties for violations of this Act and the

1 rules promulgated under this Act pursuant to rules for such  
2 penalties established by the Board ~~Department~~.

3 (Source: P.A. 89-143, eff. 7-14-95.)

4 (225 ILCS 207/60)

5 Sec. 60. Illinois School Asbestos Abatement Fund. All fees  
6 and penalties collected by the Agency ~~Department~~ pursuant to  
7 this Act shall be deposited into the Illinois School Asbestos  
8 Abatement Fund created by Section 16 of the Asbestos Abatement  
9 Act, and shall be available to the Agency ~~Department~~ for the  
10 administration of the Asbestos Abatement Act, and the  
11 Commercial and Public Building Asbestos Abatement Act ~~as~~  
12 ~~provided in that Act.~~

13 (Source: P.A. 89-143, eff. 7-14-95.)

14 (225 ILCS 207/30 rep.)

15 (225 ILCS 207/35 rep.)

16 (225 ILCS 207/45 rep.)

17 Section 90. The Commercial and Public Building Asbestos  
18 Abatement Act is amended by repealing Sections 30, 35, and 45.

19 Section 95. The Environmental Protection Act is amended by  
20 adding Section 4, 5, 28, and 59 as follows:

21 (415 ILCS 5/4) (from Ch. 111 1/2, par. 1004)

22 Sec. 4. Environmental Protection Agency; establishment;

1 duties.

2 (a) There is established in the Executive Branch of the  
3 State Government an agency to be known as the Environmental  
4 Protection Agency. This Agency shall be under the supervision  
5 and direction of a Director who shall be appointed by the  
6 Governor with the advice and consent of the Senate. The term of  
7 office of the Director shall expire on the third Monday of  
8 January in odd numbered years, provided that he or she shall  
9 hold office until a successor is appointed and has qualified.  
10 The Director shall receive an annual salary as set by the  
11 Compensation Review Board. The Director, in accord with the  
12 Personnel Code, shall employ and direct such personnel, and  
13 shall provide for such laboratory and other facilities, as may  
14 be necessary to carry out the purposes of this Act. In  
15 addition, the Director may by agreement secure such services as  
16 he or she may deem necessary from any other department, agency,  
17 or unit of the State Government, and may employ and compensate  
18 such consultants and technical assistants as may be required.

19 (b) The Agency shall have the duty to collect and  
20 disseminate such information, acquire such technical data, and  
21 conduct such experiments as may be required to carry out the  
22 purposes of this Act, including ascertainment of the quantity  
23 and nature of discharges from any contaminant source and data  
24 on those sources, and to operate and arrange for the operation  
25 of devices for the monitoring of environmental quality.

26 (c) The Agency shall have authority to conduct a program of

1 continuing surveillance and of regular or periodic inspection  
2 of actual or potential contaminant or noise sources, of public  
3 water supplies, and of refuse disposal sites.

4 (d) In accordance with constitutional limitations, the  
5 Agency shall have authority to enter at all reasonable times  
6 upon any private or public property for the purpose of:

7 (1) Inspecting and investigating to ascertain possible  
8 violations of this Act, any rule or regulation adopted  
9 under this Act, any permit or term or condition of a  
10 permit, or any Board order; or

11 (2) In accordance with the provisions of this Act,  
12 taking whatever preventive or corrective action, including  
13 but not limited to removal or remedial action, that is  
14 necessary or appropriate whenever there is a release or a  
15 substantial threat of a release of (A) a hazardous  
16 substance or pesticide or (B) petroleum from an underground  
17 storage tank.

18 (e) The Agency shall have the duty to investigate  
19 violations of this Act, any rule or regulation adopted under  
20 this Act, any permit or term or condition of a permit, or any  
21 Board order; to issue administrative citations as provided in  
22 Section 31.1 of this Act; and to take such summary enforcement  
23 action as is provided for by Section 34 of this Act.

24 (f) The Agency shall appear before the Board in any hearing  
25 upon a petition for variance, the denial of a permit, or the  
26 validity or effect of a rule or regulation of the Board, and

1 shall have the authority to appear before the Board in any  
2 hearing under the Act.

3 (g) The Agency shall have the duty to administer, in accord  
4 with Title X of this Act, such permit and certification systems  
5 as may be established by this Act or by regulations adopted  
6 thereunder. The Agency may enter into written delegation  
7 agreements with any department, agency, or unit of State or  
8 local government under which all or portions of this duty may  
9 be delegated for public water supply storage and transport  
10 systems, sewage collection and transport systems, air  
11 pollution control sources with uncontrolled emissions of 100  
12 tons per year or less and application of algicides to waters of  
13 the State. Such delegation agreements will require that the  
14 work to be performed thereunder will be in accordance with  
15 Agency criteria, subject to Agency review, and shall include  
16 such financial and program auditing by the Agency as may be  
17 required.

18 (h) The Agency shall have authority to require the  
19 submission of complete plans and specifications from any  
20 applicant for a permit required by this Act or by regulations  
21 thereunder, and to require the submission of such reports  
22 regarding actual or potential violations of this Act, any rule  
23 or regulation adopted under this Act, any permit or term or  
24 condition of a permit, or any Board order, as may be necessary  
25 for the purposes of this Act.

26 (i) The Agency shall have authority to make recommendations

1 to the Board for the adoption of regulations under Title VII of  
2 the Act.

3 (i-5) The Agency shall have authority to make  
4 recommendations to the Board for the adoption of regulations  
5 under Title VII of the Act to fulfill the purposes of the  
6 Asbestos Abatement Act and the Commercial and Public Buildings  
7 Asbestos Abatement Act.

8 (j) The Agency shall have the duty to represent the State  
9 of Illinois in any and all matters pertaining to plans,  
10 procedures, or negotiations for interstate compacts or other  
11 governmental arrangements relating to environmental  
12 protection.

13 (k) The Agency shall have the authority to accept, receive,  
14 and administer on behalf of the State any grants, gifts, loans,  
15 indirect cost reimbursements, or other funds made available to  
16 the State from any source for purposes of this Act or for air  
17 or water pollution control, public water supply, solid waste  
18 disposal, noise abatement, or other environmental protection  
19 activities, surveys, or programs. Any federal funds received by  
20 the Agency pursuant to this subsection shall be deposited in a  
21 trust fund with the State Treasurer and held and disbursed by  
22 him in accordance with Treasurer as Custodian of Funds Act,  
23 provided that such monies shall be used only for the purposes  
24 for which they are contributed and any balance remaining shall  
25 be returned to the contributor.

26 The Agency is authorized to promulgate such regulations and

1 enter into such contracts as it may deem necessary for carrying  
2 out the provisions of this subsection.

3 (1) The Agency is hereby designated as water pollution  
4 agency for the state for all purposes of the Federal Water  
5 Pollution Control Act, as amended; as implementing agency for  
6 the State for all purposes of the Safe Drinking Water Act,  
7 Public Law 93-523, as now or hereafter amended, except Section  
8 1425 of that Act; as air pollution agency for the state for all  
9 purposes of the Clean Air Act of 1970, Public Law 91-604,  
10 approved December 31, 1970, as amended; and as solid waste  
11 agency for the state for all purposes of the Solid Waste  
12 Disposal Act, Public Law 89-272, approved October 20, 1965, and  
13 amended by the Resource Recovery Act of 1970, Public Law  
14 91-512, approved October 26, 1970, as amended, and amended by  
15 the Resource Conservation and Recovery Act of 1976, (P.L.  
16 94-580) approved October 21, 1976, as amended; as noise control  
17 agency for the state for all purposes of the Noise Control Act  
18 of 1972, Public Law 92-574, approved October 27, 1972, as  
19 amended; and as implementing agency for the State for all  
20 purposes of the Comprehensive Environmental Response,  
21 Compensation, and Liability Act of 1980 (P.L. 96-510), as  
22 amended; and otherwise as pollution control agency for the  
23 State pursuant to federal laws integrated with the foregoing  
24 laws, for financing purposes or otherwise. The Agency is hereby  
25 authorized to take all action necessary or appropriate to  
26 secure to the State the benefits of such federal Acts, provided

1 that the Agency shall transmit to the United States without  
2 change any standards adopted by the Pollution Control Board  
3 pursuant to Section 5(c) of this Act. This subsection (l) of  
4 Section 4 shall not be construed to bar or prohibit the  
5 Environmental Protection Trust Fund Commission from accepting,  
6 receiving, and administering on behalf of the State any grants,  
7 gifts, loans or other funds for which the Commission is  
8 eligible pursuant to the Environmental Protection Trust Fund  
9 Act. The Agency is hereby designated as the State agency for  
10 all purposes of administering the requirements of Section 313  
11 of the federal Emergency Planning and Community Right-to-Know  
12 Act of 1986.

13 Any municipality, sanitary district, or other political  
14 subdivision, or any Agency of the State or interstate Agency,  
15 which makes application for loans or grants under such federal  
16 Acts shall notify the Agency of such application; the Agency  
17 may participate in proceedings under such federal Acts.

18 (m) The Agency shall have authority, consistent with  
19 Section 5(c) and other provisions of this Act, and for purposes  
20 of Section 303(e) of the Federal Water Pollution Control Act,  
21 as now or hereafter amended, to engage in planning processes  
22 and activities and to develop plans in cooperation with units  
23 of local government, state agencies and officers, and other  
24 appropriate persons in connection with the jurisdiction or  
25 duties of each such unit, agency, officer or person. Public  
26 hearings shall be held on the planning process, at which any

1 person shall be permitted to appear and be heard, pursuant to  
2 procedural regulations promulgated by the Agency.

3 (n) In accordance with the powers conferred upon the Agency  
4 by Sections 10(g), 13(b), 19, 22(d) and 25 of this Act, the  
5 Agency shall have authority to establish and enforce minimum  
6 standards for the operation of laboratories relating to  
7 analyses and laboratory tests for air pollution, water  
8 pollution, noise emissions, contaminant discharges onto land  
9 and sanitary, chemical, and mineral quality of water  
10 distributed by a public water supply. The Agency may enter into  
11 formal working agreements with other departments or agencies of  
12 state government under which all or portions of this authority  
13 may be delegated to the cooperating department or agency.

14 (o) The Agency shall have the authority to issue  
15 certificates of competency to persons and laboratories meeting  
16 the minimum standards established by the Agency in accordance  
17 with Section 4(n) of this Act and to promulgate and enforce  
18 regulations relevant to the issuance and use of such  
19 certificates. The Agency may enter into formal working  
20 agreements with other departments or agencies of state  
21 government under which all or portions of this authority may be  
22 delegated to the cooperating department or agency.

23 (p) Except as provided in Section 17.7, the Agency shall  
24 have the duty to analyze samples as required from each public  
25 water supply to determine compliance with the contaminant  
26 levels specified by the Pollution Control Board. The maximum

1 number of samples which the Agency shall be required to analyze  
2 for microbiological quality shall be 6 per month, but the  
3 Agency may, at its option, analyze a larger number each month  
4 for any supply. Results of sample analyses for additional  
5 required bacteriological testing, turbidity, residual chlorine  
6 and radionuclides are to be provided to the Agency in  
7 accordance with Section 19. Owners of water supplies may enter  
8 into agreements with the Agency to provide for reduced Agency  
9 participation in sample analyses.

10 (q) The Agency shall have the authority to provide notice  
11 to any person who may be liable pursuant to Section 22.2(f) of  
12 this Act for a release or a substantial threat of a release of  
13 a hazardous substance or pesticide. Such notice shall include  
14 the identified response action and an opportunity for such  
15 person to perform the response action.

16 (r) The Agency may enter into written delegation agreements  
17 with any unit of local government under which it may delegate  
18 all or portions of its inspecting, investigating and  
19 enforcement functions. Such delegation agreements shall  
20 require that work performed thereunder be in accordance with  
21 Agency criteria and subject to Agency review. Notwithstanding  
22 any other provision of law to the contrary, no unit of local  
23 government shall be liable for any injury resulting from the  
24 exercise of its authority pursuant to such a delegation  
25 agreement unless the injury is proximately caused by the  
26 willful and wanton negligence of an agent or employee of the

1 unit of local government, and any policy of insurance coverage  
2 issued to a unit of local government may provide for the denial  
3 of liability and the nonpayment of claims based upon injuries  
4 for which the unit of local government is not liable pursuant  
5 to this subsection (r).

6 (s) The Agency shall have authority to take whatever  
7 preventive or corrective action is necessary or appropriate,  
8 including but not limited to expenditure of monies appropriated  
9 from the Build Illinois Bond Fund and the Build Illinois  
10 Purposes Fund for removal or remedial action, whenever any  
11 hazardous substance or pesticide is released or there is a  
12 substantial threat of such a release into the environment. The  
13 State, the Director, and any State employee shall be  
14 indemnified for any damages or injury arising out of or  
15 resulting from any action taken under this subsection. The  
16 Director of the Agency is authorized to enter into such  
17 contracts and agreements as are necessary to carry out the  
18 Agency's duties under this subsection.

19 (t) The Agency shall have authority to distribute grants,  
20 subject to appropriation by the General Assembly, to units of  
21 local government for financing and construction of wastewater  
22 facilities in both incorporated and unincorporated areas. With  
23 respect to all monies appropriated from the Build Illinois Bond  
24 Fund and the Build Illinois Purposes Fund for wastewater  
25 facility grants, the Agency shall make distributions in  
26 conformity with the rules and regulations established pursuant

1 to the Anti-Pollution Bond Act, as now or hereafter amended.

2 (u) Pursuant to the Illinois Administrative Procedure Act,  
3 the Agency shall have the authority to adopt such rules as are  
4 necessary or appropriate for the Agency to implement Section  
5 31.1 of this Act.

6 (v) (Blank.)

7 (w) Neither the State, nor the Director, nor the Board, nor  
8 any State employee shall be liable for any damages or injury  
9 arising out of or resulting from any action taken under  
10 subsection (s).

11 (x)(1) The Agency shall have authority to distribute  
12 grants, subject to appropriation by the General Assembly,  
13 to units of local government for financing and construction  
14 of public water supply facilities. With respect to all  
15 monies appropriated from the Build Illinois Bond Fund or  
16 the Build Illinois Purposes Fund for public water supply  
17 grants, such grants shall be made in accordance with rules  
18 promulgated by the Agency. Such rules shall include a  
19 requirement for a local match of 30% of the total project  
20 cost for projects funded through such grants.

21 (2) The Agency shall not terminate a grant to a unit of  
22 local government for the financing and construction of  
23 public water supply facilities unless and until the Agency  
24 adopts rules that set forth precise and complete standards,  
25 pursuant to Section 5-20 of the Illinois Administrative  
26 Procedure Act, for the termination of such grants. The

1 Agency shall not make determinations on whether specific  
2 grant conditions are necessary to ensure the integrity of a  
3 project or on whether subagreements shall be awarded, with  
4 respect to grants for the financing and construction of  
5 public water supply facilities, unless and until the Agency  
6 adopts rules that set forth precise and complete standards,  
7 pursuant to Section 5-20 of the Illinois Administrative  
8 Procedure Act, for making such determinations. The Agency  
9 shall not issue a stop-work order in relation to such  
10 grants unless and until the Agency adopts precise and  
11 complete standards, pursuant to Section 5-20 of the  
12 Illinois Administrative Procedure Act, for determining  
13 whether to issue a stop-work order.

14 (y) The Agency shall have authority to release any person  
15 from further responsibility for preventive or corrective  
16 action under this Act following successful completion of  
17 preventive or corrective action undertaken by such person upon  
18 written request by the person.

19 (z) To the extent permitted by any applicable federal law  
20 or regulation, for all work performed for State construction  
21 projects which are funded in whole or in part by a capital  
22 infrastructure bill enacted by the 96th General Assembly by  
23 sums appropriated to the Environmental Protection Agency, at  
24 least 50% of the total labor hours must be performed by actual  
25 residents of the State of Illinois. For purposes of this  
26 subsection, "actual residents of the State of Illinois" means

1 persons domiciled in the State of Illinois. The Department of  
2 Labor shall promulgate rules providing for the enforcement of  
3 this subsection.

4 (Source: P.A. 96-37, eff. 7-13-09; 96-503, eff. 8-14-09;  
5 96-800, eff. 10-30-09; 96-1000, eff. 7-2-10.)

6 (415 ILCS 5/5) (from Ch. 111 1/2, par. 1005)

7 Sec. 5. Pollution Control Board.

8 (a) There is hereby created an independent board to be  
9 known as the Pollution Control Board.

10 Until July 1, 2003 or when all of the new members to be  
11 initially appointed under this amendatory Act of the 93rd  
12 General Assembly have been appointed by the Governor, whichever  
13 occurs later, the Board shall consist of 7 technically  
14 qualified members, no more than 4 of whom may be of the same  
15 political party, to be appointed by the Governor with the  
16 advice and consent of the Senate.

17 The term of each appointed member of the Board who is in  
18 office on June 30, 2003 shall terminate at the close of  
19 business on that date or when all of the new members to be  
20 initially appointed under this amendatory Act of the 93rd  
21 General Assembly have been appointed by the Governor, whichever  
22 occurs later.

23 Beginning on July 1, 2003 or when all of the new members to  
24 be initially appointed under this amendatory Act of the 93rd  
25 General Assembly have been appointed by the Governor, whichever

1 occurs later, the Board shall consist of 5 technically  
2 qualified members, no more than 3 of whom may be of the same  
3 political party, to be appointed by the Governor with the  
4 advice and consent of the Senate. Members shall have verifiable  
5 technical, academic, or actual experience in the field of  
6 pollution control or environmental law and regulation.

7 Of the members initially appointed pursuant to this  
8 amendatory Act of the 93rd General Assembly, one shall be  
9 appointed for a term ending July 1, 2004, 2 shall be appointed  
10 for terms ending July 1, 2005, and 2 shall be appointed for  
11 terms ending July 1, 2006. Thereafter, all members shall hold  
12 office for 3 years from the first day of July in the year in  
13 which they were appointed, except in case of an appointment to  
14 fill a vacancy. In case of a vacancy in the office when the  
15 Senate is not in session, the Governor may make a temporary  
16 appointment until the next meeting of the Senate, when he or  
17 she shall nominate some person to fill such office; and any  
18 person so nominated, who is confirmed by the Senate, shall hold  
19 the office during the remainder of the term.

20 Members of the Board shall hold office until their  
21 respective successors have been appointed and qualified. Any  
22 member may resign from office, such resignation to take effect  
23 when a successor has been appointed and has qualified.

24 Board members shall be paid \$37,000 per year or an amount  
25 set by the Compensation Review Board, whichever is greater, and  
26 the Chairman shall be paid \$43,000 per year or an amount set by

1 the Compensation Review Board, whichever is greater. Each  
2 member shall devote his or her entire time to the duties of the  
3 office, and shall hold no other office or position of profit,  
4 nor engage in any other business, employment, or vocation. Each  
5 member shall be reimbursed for expenses necessarily incurred  
6 and shall make a financial disclosure upon appointment.

7 Each Board member may employ one secretary and one  
8 assistant, and the Chairman one secretary and 2 assistants. The  
9 Board also may employ and compensate hearing officers to  
10 preside at hearings under this Act, and such other personnel as  
11 may be necessary. Hearing officers shall be attorneys licensed  
12 to practice law in Illinois.

13 The Board may have an Executive Director; if so, the  
14 Executive Director shall be appointed by the Governor with the  
15 advice and consent of the Senate. The salary and duties of the  
16 Executive Director shall be fixed by the Board.

17 The Governor shall designate one Board member to be  
18 Chairman, who shall serve at the pleasure of the Governor.

19 The Board shall hold at least one meeting each month and  
20 such additional meetings as may be prescribed by Board rules.  
21 In addition, special meetings may be called by the Chairman or  
22 by any 2 Board members, upon delivery of 24 hours written  
23 notice to the office of each member. All Board meetings shall  
24 be open to the public, and public notice of all meetings shall  
25 be given at least 24 hours in advance of each meeting. In  
26 emergency situations in which a majority of the Board certifies

1 that exigencies of time require the requirements of public  
2 notice and of 24 hour written notice to members may be  
3 dispensed with, and Board members shall receive such notice as  
4 is reasonable under the circumstances.

5 If there is no vacancy on the Board, 4 members of the Board  
6 shall constitute a quorum to transact business; otherwise, a  
7 majority of the Board shall constitute a quorum to transact  
8 business, and no vacancy shall impair the right of the  
9 remaining members to exercise all of the powers of the Board.  
10 Every action approved by a majority of the members of the Board  
11 shall be deemed to be the action of the Board. The Board shall  
12 keep a complete and accurate record of all its meetings.

13 (b) The Board shall determine, define and implement the  
14 environmental control standards applicable in the State of  
15 Illinois and may adopt rules and regulations in accordance with  
16 Title VII of this Act.

17 (b-5) The Board may adopt rules and regulations in  
18 accordance with Title VII of this Act as needed to fulfill the  
19 purposes of the Asbestos Abatement Act and the Commercial and  
20 Public Buildings Asbestos Abatement Act.

21 (c) The Board shall have authority to act for the State in  
22 regard to the adoption of standards for submission to the  
23 United States under any federal law respecting environmental  
24 protection. Such standards shall be adopted in accordance with  
25 Title VII of the Act and upon adoption shall be forwarded to  
26 the Environmental Protection Agency for submission to the

1 United States pursuant to subsections (l) and (m) of Section 4  
2 of this Act. Nothing in this paragraph shall limit the  
3 discretion of the Governor to delegate authority granted to the  
4 Governor under any federal law.

5 (d) The Board shall have authority to conduct proceedings  
6 upon complaints charging violations of this Act, any rule or  
7 regulation adopted under this Act, any permit or term or  
8 condition of a permit, or any Board order; upon administrative  
9 citations; upon petitions for variances or adjusted standards;  
10 upon petitions for review of the Agency's final determinations  
11 on permit applications in accordance with Title X of this Act;  
12 upon petitions to remove seals under Section 34 of this Act;  
13 and upon other petitions for review of final determinations  
14 which are made pursuant to this Act or Board rule and which  
15 involve a subject which the Board is authorized to regulate.  
16 The Board may also conduct other proceedings as may be provided  
17 by this Act or any other statute or rule.

18 (e) In connection with any proceeding pursuant to  
19 subsection (b) or (d) of this Section, the Board may subpoena  
20 and compel the attendance of witnesses and the production of  
21 evidence reasonably necessary to resolution of the matter under  
22 consideration. The Board shall issue such subpoenas upon the  
23 request of any party to a proceeding under subsection (d) of  
24 this Section or upon its own motion.

25 (f) The Board may prescribe reasonable fees for permits  
26 required pursuant to this Act. Such fees in the aggregate may

1 not exceed the total cost to the Agency for its inspection and  
2 permit systems. The Board may not prescribe any permit fees  
3 which are different in amount from those established by this  
4 Act.

5 (Source: P.A. 95-331, eff. 8-21-07.)

6 (415 ILCS 5/28) (from Ch. 111 1/2, par. 1028)

7 Sec. 28. Proposal of regulations; procedure.

8 (a) Any person may present written proposals for the  
9 adoption, amendment, or repeal of the Board's regulations, and  
10 the Board may make such proposals on its own motion. If the  
11 Board finds that any such proposal is supported by an adequate  
12 statement of reasons, is accompanied by a petition signed by at  
13 least 200 persons, is not plainly devoid of merit and does not  
14 deal with a subject on which a hearing has been held within the  
15 preceding 6 months, the Board shall schedule a public hearing  
16 for consideration of the proposal. If such proposal is made by  
17 the Agency or by the Department, the Board shall schedule a  
18 public hearing without regard to the above conditions. The  
19 Board may hold one or more hearings to consider both the merits  
20 and the economics of the proposal. The Board may also in its  
21 discretion schedule a public hearing upon any proposal without  
22 regard to the above conditions.

23 No substantive regulation shall be adopted, amended, or  
24 repealed until after a public hearing within the area of the  
25 State concerned. In the case of state-wide regulations hearings

1 shall be held in at least two areas. At least 20 days prior to  
2 the scheduled date of the hearing the Board shall give notice  
3 of such hearing by public advertisement in a newspaper of  
4 general circulation in the area of the state concerned of the  
5 date, time, place and purpose of such hearing; give written  
6 notice to any person in the area concerned who has in writing  
7 requested notice of public hearings; and make available to any  
8 person upon request copies of the proposed regulations,  
9 together with summaries of the reasons supporting their  
10 adoption.

11 Any public hearing relating to the adoption, amendment, or  
12 repeal of Board regulations under this subsection shall be held  
13 before a qualified hearing officer, who shall be attended by at  
14 least one member of the Board, designated by the Chairman. All  
15 such hearings shall be open to the public, and reasonable  
16 opportunity to be heard with respect to the subject of the  
17 hearing shall be afforded to any person. All testimony taken  
18 before the Board shall be recorded stenographically. The  
19 transcript so recorded, and any written submissions to the  
20 Board in relation to such hearings, shall be open to public  
21 inspection, and copies thereof shall be made available to any  
22 person upon payment of the actual cost of reproducing the  
23 original.

24 After such hearing the Board may revise the proposed  
25 regulations before adoption in response to suggestions made at  
26 the hearing, without conducting a further hearing on the

1 revisions.

2 In addition, the Board may revise the proposed regulations  
3 after hearing in response to objections or suggestions made by  
4 the Joint Committee on Administrative Rules pursuant to  
5 subsection (b) of Section 5-40 and subsection (a) of Section  
6 5-110 of the Illinois Administrative Procedure Act, where the  
7 Board finds (1) that such objections or suggestions relate to  
8 the statutory authority upon which the regulation is based,  
9 whether the regulation is in proper form, or whether adequate  
10 notice was given, and (2) that the record before the Board is  
11 sufficient to support such a change without further hearing.

12 Any person heard or represented at a hearing or requesting  
13 notice shall be given written notice of the action of the Board  
14 with respect to the subject thereof.

15 No rule or regulation, or amendment or repeal thereof,  
16 shall become effective until a certified copy thereof has been  
17 filed with the Secretary of State, and thereafter as provided  
18 in the Illinois Administrative Procedure Act as amended.

19 Any person who files a petition for adoption of a  
20 regulation specific to that person shall pay a filing fee.

21 (b) The Board shall not, on its own motion, propose  
22 regulations pursuant to subsection (a) of this Section or  
23 Sections 28.2, 28.4 or 28.5 of this Act to implement the  
24 provisions required by or related to the Clean Air Act  
25 Amendments of 1990, as now or hereafter amended. However,  
26 nothing herein shall preclude the Board from, on its own

1 motion:

2 (1) making technical corrections to adopted rules  
3 pursuant to Section 100.240 of Title 1 of the Illinois  
4 Administrative Code;

5 (2) modifying a proposed rule following receipt of  
6 comments, objections, or suggestions without agreement of  
7 the proponent after the end of the hearing and comment  
8 period;

9 (3) initiating procedural rulemaking in accordance  
10 with Section 26 of this Act; or

11 (4) initiating rulemaking necessitated by a court  
12 order directed to the Board.

13 (Source: P.A. 87-860; 87-1213; 88-45.)

14 (415 ILCS 5/59 new)

15 Sec. 59. Asbestos Abatement Act; Commercial and Public  
16 Buildings Asbestos Abatement Act.

17 (a) On July 1, 2013, all powers, duties, rights, and  
18 responsibilities of the Department of Public Health and the  
19 Director of Public Health under the Asbestos Abatement Act and  
20 the Commercial and Public Buildings Asbestos Abatement Act,  
21 other than those related to the licensure of persons and  
22 entities to perform the functions regulated by those Acts, are  
23 transferred to the Illinois Environmental Protection Agency  
24 and the Director of Illinois Environmental Protection Agency.  
25 In the context of any statutes or regulations needed to

1 implement or enforce the non-licensing related provisions of  
2 either the Asbestos Abatement Act or the Commercial and Public  
3 Buildings Asbestos Abatement Act, including, but not limited  
4 to, Part 855 of Title 77 of the Illinois Administrative Code,  
5 on and after July 1, 2013, all references to the Department of  
6 Public Health shall be construed to mean the Illinois  
7 Environmental Protection Agency, and all references to the  
8 Director of Public Health shall be construed to mean the  
9 Director of the Illinois Environmental Protection Agency.

10 (b) Those employees of the Department of Public Health  
11 needed to administer either the Asbestos Abatement Act or the  
12 Commercial and Public Buildings Asbestos Abatement Act, other  
13 than those employees who perform work related to the licensure  
14 of persons and entities to perform the functions regulated by  
15 those Acts, shall be transferred to the Illinois Environmental  
16 Protection Agency. The status and rights of such employees  
17 under the Personnel Code shall not be affected by the transfer.  
18 The rights of the employees and the State of Illinois and its  
19 agencies under the Personnel Code and applicable collective  
20 bargaining agreements or under any pension, retirement, or  
21 annuity plan shall not be affected by this amendatory Act.

22 (c) All books, records, papers, documents, property (real  
23 and personal), contracts, causes of action, and pending  
24 business pertaining to the powers, duties, rights, and  
25 responsibilities transferred by this amendatory Act from the  
26 Department of Public Health to the Illinois Environmental

1 Protection Agency, including, but not limited to, material in  
2 electronic or magnetic format and necessary computer hardware  
3 and software, shall be transferred to the Illinois  
4 Environmental Protection Agency.

5 (d) All unexpended appropriations and balances and other  
6 funds available for use by the Department of Public Health for  
7 the administration of the Asbestos Abatement Act or the  
8 Commercial and Public Buildings Asbestos Abatement Act shall be  
9 transferred for use by the Illinois Environmental Protection  
10 Agency pursuant to the direction of the Director of the  
11 Illinois Environmental Protection Agency. Unexpended balances  
12 so transferred shall be expended only for the purpose for which  
13 the appropriations were originally made.

14 (e) Whenever reports or notices are now required to be made  
15 or given or papers or documents furnished or served by any  
16 person to or upon the Department of Public Health in connection  
17 with any of the powers, duties, rights, and responsibilities  
18 transferred by this amendatory Act, the same shall be made,  
19 given, furnished, or served in the same manner to or upon the  
20 Illinois Environmental Protection Agency.

21 (f) This amendatory Act does not affect any act done,  
22 ratified, or canceled or any right occurring or established or  
23 any action or proceeding had or commenced in an administrative,  
24 civil, or criminal cause by the Department of Public Health  
25 before this amendatory Act takes effect; such actions or  
26 proceedings may be prosecuted and continued by the Illinois

1 Environmental Protection Agency.

2 (g) Any rules of the Department of Public Health in  
3 connection with any of the non-licensing related powers,  
4 duties, rights, and responsibilities transferred by this  
5 amendatory Act and that are in full force on the effective date  
6 of this amendatory Act shall become the rules of the Illinois  
7 Pollution Control Board. This amendatory Act does not affect  
8 the legality of any such rules in the Illinois Administrative  
9 Code.

10 Any proposed rules filed with the Secretary of State by the  
11 Department of Public Health in connection with any of the  
12 non-licensing related powers, duties, rights, and  
13 responsibilities transferred by this amendatory Act that are  
14 pending in the rulemaking process on the effective date of this  
15 amendatory Act and pertain to the non-licensing related powers,  
16 duties, rights, and responsibilities transferred, shall be  
17 deemed to have been filed by the Illinois Environmental  
18 Protection Agency.

19 As soon as practicable after the effective date of this  
20 Section, the Illinois Environmental Protection Agency shall  
21 review, revise and clarify the rules transferred to it under  
22 this amendatory Act to reflect the reorganization of powers,  
23 duties, rights, and responsibilities affected by this  
24 amendatory Act, using the procedures for recodification of  
25 rules available under the Illinois Administrative Procedure  
26 Act, except that existing title, part, and section numbering

1 for the affected rules may be retained. In so doing, the  
2 Illinois Environmental Protection Agency shall ensure that a  
3 single set of standards apply to all parties similarly  
4 situated.

5 Under no circumstances shall this process, or the  
6 re-codification of rules provided for under this subsection  
7 (g), allow for the weakening of protection from asbestos  
8 exposure or increase the risk to human health or the  
9 environment therefrom.

10 (h) Asbestos Advisory Committee.

11 (1) There is created the Asbestos Advisory Committee,  
12 composed of the following members appointed by the  
13 Governor:

14 (A) one member recommended by the Illinois Chamber  
15 of Commerce;

16 (B) one member recommended by the Illinois  
17 Association of Realtors;

18 (C) one member recommended by the Illinois  
19 Municipal League;

20 (D) one member recommended by the Illinois  
21 Statewide School Management Alliance;

22 (E) one member recommended by the Illinois  
23 Specialty and Mechanical Contractors Association;

24 (F) one member recommended by the Chicago Local  
25 Section of the American Industrial Hygiene  
26 Association;

1           (G) one member recommended by the Illinois  
2           Environmental Contractors Association;

3           (H) one member recommended by the American  
4           Federation of Labor and Congress of Industrial  
5           Organizations (AFL-CIO);

6           (I) one member recommended by the Illinois Chapter  
7           of the American Institute of Architects;

8           (J) one member employed by an Illinois-based  
9           business providing asbestos consulting services;

10          (K) one member employed by an Illinois-based  
11          business providing Illinois-approved asbestos training  
12          courses; and

13          (L) three members of the public.

14          Administrative support shall be provided to the  
15          Committee by the Environmental Protection Agency.

16          (2) The members of the Committee shall be appointed for  
17          terms of four years, and may be reappointed; appointments  
18          to fill vacancies shall be for the balance of the current  
19          term. Members shall serve without compensation, but may be  
20          reimbursed for actual expenses from funds appropriated for  
21          that purpose. Members shall elect annually from their  
22          number a chairperson and such other officers as they may  
23          deem necessary. The Committee shall meet at least annually  
24          and at the call of the chairperson.

25          (3) The Committee shall:

26          (A) review, evaluate, and make recommendations to

1           the Director of the Environmental Protection Agency  
2           regarding laws, rules, and procedures related to  
3           asbestos remediation;

4           (B) review, evaluate, and make recommendations to  
5           the Director of Public Health regarding the training  
6           and licensing of persons and entities to engage in  
7           asbestos remediation;

8           (C) make recommendations to the Director of the  
9           Environmental Protection Agency relating to the  
10           efforts to implement this Section, together with the  
11           changes in this amendatory Act of the 98th General  
12           Assembly to the Asbestos Abatement Act and the  
13           Commercial and Public Buildings Act; and

14           (D) make recommendations to the Director of Public  
15           Health relating to the efforts to implement this  
16           Section and the Asbestos Occupations Licensure Act,  
17           together with the changes in this amendatory Act of the  
18           98th General Assembly to the Asbestos Abatement Act and  
19           the Commercial and Public Buildings Act.

20           (i) On and after the effective date of this amendatory Act  
21           of the 98th General Assembly, except for those functions  
22           expressly provided for in the Asbestos Occupations Licensure  
23           Act, all rulemaking by the Agency in carrying out its  
24           responsibilities under the Asbestos Abatement Act and the  
25           Commercial and Public Buildings Act shall be done by the  
26           Pollution Control Board in accordance with Title VII of this

1 Act.

2 Section 99. Effective date. This Act takes effect July 1,  
3 2013.".